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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,381	03/04/2002	John Cook	30222/83:9 US	8204
26263	7590	09/14/2004	EXAMINER	
SONNENSCHN NATH & ROSENTHAL LLP P.O. BOX 061080 WACKER DRIVE STATION, SEARS TOWER CHICAGO, IL 60606-1080			NAKARANI, DHIRAJLAL S	
			ART UNIT	PAPER NUMBER
			1773	

DATE MAILED: 09/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

SC

Office Action Summary	Application No. 10/092,381	Applicant(s) COOK ET AL.	
	Examiner D. S. Nakarani	Art Unit 1773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-13 and 24-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-13 and 24-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment filed May 6, 2004 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

a. Page 8, line 2, monomer "butyl acrylate" is not supported by the originally filed specification.

b. Page 9, line 15, changing "about 5%" to --about 6%-- is a new matter. The Examiner is unable to find support for "about 6%" in the originally filed specification. Applicants have not pointed where the support for "about 6%" can be found in the originally filed specifications.

Applicant is required to cancel the new matter in the reply to this Office Action.

2. Applicants are requested to NOTE that the new claims in the amendment filed May 6, 2004 includes two claims numbered as 43 and claims two claims numbered as 44. Therefore, the claims number starting from second claim 43 to claim 58 have been renumbered as claim 45 to claim 60. Thus pending claims are 1, 3-13 and 24-60.

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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4. Claims 24-60 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification as originally filed does not provide support for at least one-second layer comprising a polypropylene. That is a multi-layer stretch film has a polypropylene as a core layer. The claim 24 does not state that the third layer is between the first layer and the second layer. Therefore the structure of a multi-layer stretch wrap film is considered as in order as written making the second layer as a core layer, which is a new matter. Applicants have not provided support for such structure of a claimed multi-layer film. Furthermore, the originally filed specification does not provide support for the limitation "third layer comprising from about 40-90% of the total thickness of the film" in claim 37.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

6. Claims 26, 27, 32, 33, 43, 44, 51, 56 and 59 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 26, 27, 32 and 33, the phrase "polyethylene copolymerized" should read --ethylene copolymerized-- since polyethylene is a polymer and is not polymerized with recited monomer.

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Claim 43, lines 1-2, the phrase "from about 0.921 g/cm³" cannot be understood since upper limit is not provided. In absence of providing upper limit, said phrase also constitute new matter.

Claim 44, line 2, the phrase "from about 0.2 g/10 minutes" cannot be understood since upper limit is not provided. In absence of providing upper limit, said phrase also constitutes new matter.

Claim 51, line 3, the term "copolymers" renders claim indefinite and also constitute new matter because it is not clear how ethylene is copolymerized with copolymers of recited monomers. The specification does not provide support for polymerizing ethylene with copolymers.

Claim 56, line 1, the phrase "being copolymerized with a comonomer" renders claim indefinite and confusing because it is not clear how polypropylene is a copolymerized with a recited comonomer.

Changing said phrase to a phrase "is a copolymer of propylene and a monomer".

Claim 59, line 2, the abbreviation "mm" should read --mil--.

Applicants are requested to change phrase "from about x-y" to the phrase --from about x to about y-- in claims 29, 30, 35, 36, 37, 38, 39, 40, 41, 57, 58, 59 and 60.

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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8. Claims 1 and 3-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ramsey et al (US Patent 5,955,205) in view of Koch et al (US Patent 5,399,426) for the reasons of record set forth in paragraph 3 of the Office Action mailed November 26, 2003 (Paper No. 5).

9. Applicant's arguments filed May 6, 2004 have been fully considered but they are not persuasive. In reference to rejection of claims 1-23 under 35 USC § 103(a) as being unpatentable over Ramsey et al (U. S. Patent 5,955,205) in view of Koch et al (US Patent 5,399,426), applicants mainly argue that Ramsey et al do not teach or suggest the use of ultra low density polyethylene in the cling layer (or reverse layer) of the multi-layer film. The cling layer disclosed by Ramsey et al is comprised of homogeneously branched linear ethylene polymer (i.e. SLEP). Ramsey et al's ultra low-density polyethylene is a heterogeneously branched linear ethylene polymer (column 6, line 59- column 7, line 6) and is used in the core layer.

Similarly, Koch et al fail to teach or suggest a cling layer comprising ultra low-density polyethylene. Thus neither reference teaches the use of ultra low-density polyethylene in the cling layer of a multi-layer film, there can be no reasonable expectation of success in combining these two references.

These arguments are unpersuasive because Ramsey et al's substantially homogeneously branched linear ethylene polymer (SLEP) has density from 0.870 to 0.887 g/cm³ (see Tables 2, 3 and 4). Ramsey et al's Examples show core layer made of linear low density polyethylene which is a heterogeneously branched ethylene 1-octane copolymer having density of 0.917 for LLDPE-1 and 0.920 for LLDPE-2. Ramsey et al does not teach core made of SLEP as argued.

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Koch et al is not used to show cling layer made of ultra low-density polyethylene. Koch et al reference is used to show that adding low-density polyethylene to linear low-density polyethylene increases ultimate elongation. The density of SLEP falls within claimed range of ultra low-density polyethylene (see claim 13 of instant disclosure and page 5, paragraph 0022). There is no evidence provided showing that SLEP is not an ultra low-density polyethylene as defined in the instant disclosure.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner D. S. Nakarani whose telephone number is (571) 272-1512. The examiner can normally be reached on Tuesday-Friday from 7 a.m. to 5:30 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on (571) 272-1535. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D.S. Nakarani/dh
September 10, 2004


D. S. NAKARANI
PRIMARY EXAMINER